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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON  
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8 LISA TURPEN, a single person,

9 Plaintiff,

10 v.

11 STATE OF WASHINGTON, by and

12 through the WASHINGTON STATE

13 PATROL; ERICA GRAHAM,

14 individually; and TRAVIS MATHESON,

15 individually,

16 Defendants.  
17

No. 2:15-cv-00289-SAB

**ORDER DENYING  
STIPULATED MOTION FOR  
PROTECTIVE ORDER**

18 Before the Court is the parties' Stipulated Motion for Protective Order, ECF  
19 No. 13, and a related stipulated motion to expedite, ECF No. 14. The parties seek a  
20 protective order to protect confidential information. This motion was heard  
21 without oral argument.

22 The product of pretrial discovery is presumptively public, though Federal  
23 Rule of Civil Procedure Rule 26(c) permits a district court to override this  
24 presumption upon a showing of "good cause." *San Jose Mercury News, Inc. v.*  
25 *U.S. District Court-Northern Dist. (San Jose)*, 187 F.3d 1096, 1103 (9th Cir.  
26 1999). Rule 26(c) provides that a "court may, for good cause, issue an order to  
27 protect a party or person from annoyance, embarrassment, oppression, or undue  
28 burden or expense." Prior to the grant of a protective order, the moving party must

1 certify it has “conferred or attempted to confer with other affected parties in an  
2 effort to resolve the dispute *without court action*.” Fed. R. Civ. P. 26(c) (emphasis  
3 added).

4       Where the parties agree, as here, that certain information should remain  
5 confidential, it may be prudent to enter into an agreement setting forth in writing  
6 what information shall remain private. It is unnecessary, however, for such an  
7 agreement to have this Court’s imprimatur. A court issued protective order is less  
8 necessary since Rule 5(d) was amended to only require filing discovery material  
9 actually used in support of an action. Because not all discovery material need be  
10 filed, most discovery material is not readily accessible to the public. Therefore, the  
11 primary concern regarding confidential materials is how the parties themselves  
12 handle such material. This Court will not hesitate to issue a protective order when  
13 it is necessary; however, the moving party or parties must demonstrate good cause  
14 exists and must bear the “burden of showing specific prejudice or harm” that will  
15 result if no protective order is granted. *Phillips v. G.M. Corp.*, 307 F.3d 1206,  
16 1210-11 (9th Cir. 2002). In other words, the moving party must demonstrate why  
17 the parties cannot resolve the issue without court action—a standard that will  
18 generally not be met when the parties agree to the terms of a proposed protective  
19 order.

20       The motion at hand fails to demonstrate specific harm or prejudice that will  
21 result if no protective order is granted. Additionally, the parties appear to be in  
22 agreement on the procedures to be used to determine what material is appropriate  
23 for discovery and how it should be handled. Accordingly, the Court denies the  
24 stipulated motion for protective order.

25       The Court encourages the parties to continue cooperating with respect  
26 to the handling of potentially sensitive discovery material. The parties may, upon  
27 proper showing tied to specific discovery material, move the Court to protect or  
28 seal certain discovery filings.

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. The Stipulated Motion for Protective Order, ECF No. 13, is **DENIED**.

3 2. The related motion to expedite, ECF No. 14, is **GRANTED**.

4 **IT IS SO ORDERED.** The District Court Executive is hereby directed to  
5 file this Order and provide copies to counsel.

6 **DATED** this 10th day of January, 2017.



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12 Stanley A. Bastian  
13 United States District Judge  
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